

SENATE BILL REPORT

SB 6058

AS OF JANUARY 27, 1992

Brief Description: Licensing tax preparers and tax consultants.

SPONSORS: Senator L. Smith

SENATE COMMITTEE ON COMMERCE & LABOR

Staff: Forrest Bathurst (786-7429)

Hearing Dates: January 30, 1992

BACKGROUND:

Approximately half of all American taxpayers currently file their own tax forms. However, the percentage is dropping as federal and state tax laws change.

The state of Oregon passed a bill in 1973 that requires tax preparers and tax consultants obtain a license to practice. SB 6058 is patterned after Oregon statute #673.605.

Washington State does not currently require tax preparers or tax consultants obtain a license.

SUMMARY:

A person may not provide advice on limiting personal income tax liability or prepare a personal income tax return for another, for valuable consideration, after June 30, 1993 without first obtaining a license as a tax consultant or tax preparer from the Department of Licensing.

A tax preparer may not prepare or assist in the preparation of tax returns except under the direct supervision of a licensed tax consultant.

Attorneys and certified public accountants are exempt from the licensing requirements of this act.

Every applicant for a license as a tax preparer or tax consultant must: 1) be at least 18 years of age; 2) possess a high school diploma or GED; 3) successfully complete at least 80 hours of course work in income tax law, theory, and practice; and 4) pass an examination.

In addition to the basic requirements, an applicant for a tax consultant's license must: 1) certify that he or she has worked as a tax preparer for at least 780 hours; and 2) pass an examination that is more demanding than the one required for licensure as a tax preparer.

A corporation, firm, or partnership providing tax consulting and tax preparation services must report annually to the director which employees: 1) provide tax consulting and preparation services; and 2) make commercial decisions for the firm.

A corporation, firm, or partnership may not provide tax consulting or tax preparation services if a tax consultant, tax preparer, proprietor, a partner, principal, an officer, director, manager or shareholder has had his or her license permanently revoked or refused by Washington or another state. A shareholder is defined as a person that owns 10 percent or more of the stock of a publicly traded corporation, and if not publicly traded, any shareholder.

A corporation, firm, or partnership may sever a relationship with an employee whose license has been permanently revoked or refused if required by the director as a condition for continuing business activities. In such cases, a maximum of 180 days is allowed for the business relationship to be dissolved.

Out-of-state tax consultants and tax preparers may practice in Washington State if they have training, insurance, and certification requirements equal to that of Washington State. Out-of-state practitioners must register with the Washington Department of Licensing.

Persons offering tax consulting and tax preparation services prior to the effective date of this act shall be licensed without regard to the licensing requirements established by this bill.

The Director of the Department of Licensing may investigate practitioners, with or without complaints, if the director has reason to believe unprofessional conduct has occurred. If the director finds that unprofessional conduct has occurred or that a licensee cannot practice with reasonable skill, the director may order: 1) revocation or suspension of a license; 2) limitation of practice; 3) remedial education or treatment; 4) censure or reprimand; 5) professional probation; 6) withholding a license; 7) other corrective action; and 8) a refund of fees.

EFFECT OF PROPOSED SUBSTITUTE:

Persons certified by the Internal Revenue Service as enrolled agents are exempt from the provisions of this act.

Persons employed by and working under the direct supervision of a licensed certified public accountant or attorney at law are exempt from the provisions of the bill.

The director may contract for testing documents or services.

Certification by one or more certified public accountants or attorneys at law that an applicant meets the 780 hour work requirement for licensure is considered adequate proof.

Corporations, firms and partnerships that offer services under this act must register with the Department of Licensing and annually report to the department.

Out-of-state tax consultants must obtain a license to practice in Washington. Out-of-state practitioners will be issued a license without examination if they meet equivalency requirements established by the director.

Persons currently acting as tax consultants or tax preparers are grandfathered into the act if they apply for licensure within one year of the effective date of the bill and document that they have worked 780 hours during two of the last five years.

The director shall establish fees by rule. Fees collected are deposited into the professional licensing account established at the treasury. Renewal fees are similarly established by rule. Failure to renew a license on or before the expiration date cancels the license.

Appropriation: none

Revenue: none

Fiscal Note: requested January 21, 1992